

## FIFTH DAY.

SENATE CHAMBER,  
AUSTIN, TEXAS, June 14, 1879. }

Senate met pursuant to adjournment. President in the chair. Prayer by Rev. D. E. D. Pitts, of Chappel Hill. Roll called; quorum present.

On motion of Senator Gooch, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Gooch, Senator Duncan was excused for four days.

On motion of Senator Brown, Mr. Belvin, the engrossing clerk, was excused for the day in consequence of sickness.

Senator Brown, chairman of committee on contingent expenses, submitted the following report:

COMMITTEE ROOM, AUSTIN, June 14, 1879.

*Hon. J. D. Sayers, President of the Senate:*

Your committee on contingent expenses have had under consideration Senate bill No. 10, entitled "An act making an appropriation to defray the contingent expenses of the Senate of the first called session of the Sixteenth Legislature," and instruct me to return the same to the Senate recommending its passage.

BROWN, *Chairman.*

The president, after publicly reading its caption, signed Senate bill No. 8, entitled "An act making an appropriation for the mileage and per diem of the members, and the per diem pay of the officers and employes of the first called session of the Sixteenth Legislature."

Senator Stewart offered the following resolution:

WHEREAS, The Legislature at its regular session, in the general appropriation bill for the years 1879 and 1880, did provide for the maintenance and support of public free schools, and for the payment of the interest accruing upon the bonded indebtedness of the state, and for a sinking fund to be applied to the payment of said bonds—all of which items were vetoed by his excellency the governor; and

Whereas, there is an honest difference of opinion existing among the members of this body as to what amount of money can be justly appropriated for the support of free schools, but all are agreed that the interest and credit of the state requires that prompt action shall be had in providing for the payment of the interest that is accruing on the bonds of the state held by creditors, and which appropriation has been recommended by the governor in his message to this called session of the Legislature; and

Whereas, a bill is now before the finance committee of the Senate which provides for the payment of said interest and setting apart said sinking fund, and contains no other provision about which a conflict of opinion might arise and cause delay; therefore, be it

*Resolved*, That the committee on finance be instructed to report said bill, making appropriations for the interest and sinking fund, at so early a day as they can, and that they do not report any bill coupling the interest and sinking fund appropriation with any other appropriation.

Senator Edwards moved to refer the resolution to the committee on finance.

Senator McCulloch offered the following substitute for the pending resolution of Senator Stewart:

WHEREAS, Under the present constitution of this state the Sixteenth Legislature is in extra session; and it is the imperative duty of this Legislature to enact certain laws submitted in the governor's proclamation; and whereas, the time of this extra session of this Legislature is limited to thirty days from its beginning; therefore, in order that we may come directly and systematically to the work required by the governor's proclamation, be it

*Resolved by the Senate of the State of Texas, the House concurring,* That it be, and is hereby made the duty of each standing committee of the Legislature to ascertain at once what bill or bills are necessary to enact the items or laws required by the governor's proclamation, coming under its respective head, and report the same to the Legislature immediately by bill or otherwise, and to secure harmonious action as far as possible in the two houses, the corresponding committee of the Senate and the House be requested to confer together in regard to the matters herein provided.

Senator Davenport made the point of order that Senator McCulloch's resolution was not germane to the resolution of Senator Stewart, that it is intended to substitute, and therefore is out of order.

Overruled.

Senator Shannon moved to excuse Senators Burnett, Homan, Lane and Patton for the first two days of the present session.

Carried.

Senator McCulloch withdrew his substitute for the pending resolution.

Senator Gooch offered the following amendment to the pending resolution:

Strike out all after the words "free schools," on first page, four lines from the bottom of said page, and add as follows:

"WHEREAS, sound public policy demands that the interest on the public debt be promptly paid where it can be done without impairing the ability of the actual government, to protect life and property; and

"Whereas, there is a sufficient sum to pay the interest due in July, A. D. 1879, on the public debt, now in the treasury, which, it is believed, can be appropriated without incurring the risk of impairing the efficiency of the actual state government for the next two years, whether the laws tying up one-fourth of the revenue be repealed or not; and

"Whereas, it is believed by many to be uncertain whether more than the amount named can be appropriated for that purpose, unless the laws tying up one-fourth of the revenue can be repealed; therefore, be it

*Resolved,* That the finance committee be instructed to inquire whether a bill cannot be at once reported appropriating the July interest for 1879, without incurring danger of impairing the efficiency of the actual government in the present state of the law; and if it can be done to report such bill at once."

Adopted by the following vote:

YEAS.			
Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Lair,	McCulloch,	Terrell,
Edwards,	Lane,	Moore,	Tilson—17.
Ford,			
NAYS.			
Burnett,	Grace,	Motley,	Shannon,
Burton,	Guy,	Patton,	Stewart,
Davenport,	Houston,	Ripetoe,	Swain—12.

Senator Homan stated he was paired with Senator Duncan, who was absent; that he would vote "nay" and Senator Duncan "yea" on this question.

Senator Houston offered the following substitute for the pending resolution:

*Resolved*, That the finance committee is hereby requested and instructed to report Senate bill No. 3, entitled—"An act to make an appropriation to pay interest on the public debt, and to provide a sinking fund for the years ending March 1, 1880 and 1881," before the expiration of the morning call on Monday morning next.

Senator Edwards moved to lay the substitute of Senator Houston on the table.

Senator Terrell moved a call of the Senate.

Call sustained; roll called and Senate full.

The motion of Senator Edwards to lay the substitute of Senator Houston on the table carried by the following vote:

## YEAS.

Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Lane,	McCulloch,	Terrell,
Edwards,	Lair,	Moore,	Tilson—17.
Ford,			

## NAYS.

Burnett,	Grace,	Motley,	Shannon,
Burton,	Guy,	Patton,	Stewart,
Davenport,	Houston,	Ripetoe,	Swain—12.

Senator Homan did not vote, and stated that he was paired as on the previous vote.

Senator Storey moved the previous question on the pending resolution.

Motion seconded and main question ordered.

Senator Burnett called for a division of the question.

Senator Hobby made the point of order that the resolution could not be divided.

Point of order sustained.

The resolution of Senator Stewart as amended was then adopted by the following vote:

## AYES.

Blassingame,	Gooch,	Ledbetter,	Storey,
Brown,	Hobby,	Martin,	Street,
Buchanan,	Lane,	McCulloch,	Terrell,
Edwards,	Lair,	Moore,	Tilson—17.
Ford,			

## NAYS.

Burnett,	Grace,	Motley,	Shannon,
Burton,	Guy,	Patton,	Stewart,
Davenport,	Houston,	Ripetoe,	Swain—12.

Senator Homan did not vote because he was paired with Senator Duncan. He would have voted "no" and Senator Duncan "aye" in this vote.

Senator McCulloch presented the resolution he offered and withdrew during the consideration of the resolution of Senator Stewart.

Senator Grace made the point of order that the resolution changes the rules of the Senate and would have to lie over a day under the rules.

Overruled.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

COMMITTEE ROOM, AUSTIN, June 14, 1879.

*Hon. J. D. Sayers, President of the Senate:*

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 8, "An act making an appropriation for mileage and per diem pay of members, and per diem pay of officers and employes of the first called session of the Sixteenth Legislature," and at 9:25 o'clock A. M. presented the same to the governor for his signature. GRACE, *Chairman.*

The resolution of Senator McCulloch was adopted by the following vote:

YEAS.			
Blassingame,	Edwards.	Lair,	Motley,
Brown,	Ford,	Ledbetter,	Shannon,
Buchanan,	Gooch.	Martin,	Storey,
Burnett,	Hobby.	McCulloch,	Street,
Burton,	Lane,	Moore,	Tilson—20.
NAYS.			
Davenport,	Guy,	Houston,	Stewart.
Grace,	Homan,	Ripetoe,	Swain—8.
Not voting—Patton, Terrell.			

Senator Edwards (by leave) introduced a bill entitled "An act to amend 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879."

Read by caption and referred to judiciary committee No. 1.

Senator Buchanan (by leave) introduced a bill entitled "An act to amend articles 4746, 4747 and 4748 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the regular session of the Sixteenth Legislature."

Read by caption and referred to the committee on finance.

Senator Lane (by leave) introduced a bill entitled "An act to amend articles 1057, 1058 and 1059 of the Code of Criminal Procedure of the State of Texas, passed and adopted at the regular session of the Sixteenth Legislature."

Read by caption and referred to the committee on finance.

Senator Swain (by leave) introduced a bill entitled "An act to provide for the appointment of a financial agent to act in aid of our members of congress in prosecuting and collecting our claims against the United States."

Read by caption and referred to committee on finance.

Senator Moore (by leave) introduced a bill entitled "An act to amend section 8 of 'an act regulating the government of the Agricultural and Mechanical College of Texas,' approved March 9, 1875."

Read by caption and referred to committee on agriculture.

Senator Lane (by leave) introduced a bill entitled "An act to provide for the sale of the alternate sections of land set apart and appropriated for the support of the public schools."

Read by caption and referred to committee on state affairs.

Senator Storey (by leave) introduced a bill entitled "An act amending article 3720 of the Revised Civil Statutes," approved April 20, 1879.

Read by caption and referred to committee on finance.

On motion of Senator Burnett, Senator Homan was added to the committee on finance.

Senator Patton gave notice that those who voted against the resolution of Senator Stewart, as amended by the amendment of Senator Gooch, would spread the reasons for their vote on the journals.

Senator Stewart gave notice that he would enter on the journals his reasons for voting against the amendment of Senator Gooch to his resolution offered this morning.

Senator Tilson, chairman of the committee on counties and county boundaries (by leave) submitted the following report:

COMMITTEE ROOM, AUSTIN, June 14, 1879.

*Hon. J. D. Sayers, President of the Senate:*

Your committee on counties and county boundaries, to whom was referred Senate bill No. 11, to be entitled "An act to amend articles 672 and 673 of chapter 22 of the Revised Civil Statutes of the State of Texas, and to repeal article 675 of said chapter relating to organized counties," have duly considered the same, and I am instructed by this committee to report the same back to the Senate with the accompanying substitute for the original bill and recommend the passage of said substitute.

TILSON, *Chairman.*

The bill just reported by the committee was taken up and read first time.

The following communication was received from the secretary of the Senate:

SENATE CHAMBER, }  
AUSTIN, TEXAS, June 14, 1879. }

*Hon. J. D. Sayers, President of the Senate:*

Under the resolution reported on yesterday by the committee on printing, and adopted by the Senate, providing for the publication of the journals of the Senate in the *Legislative Record*, I find myself at a loss as to what is to be considered the original and hence the official journal. With a view to ascertaining what is the proper course to pursue in reference to this proposition, I have deemed it best to call your attention to this that I may act in conformity with what may be the ascertained wish of the Senate.

If the publication in the *Record* is to be the official journal, then it becomes necessary to change the construction of it from the form in which it is now being prepared. The journal secretary is pursuing the same plan in their make up as he did during the regular session of the Legislature, and it is important, if there is to be a different mode adopted, that it should at once be so understood.

If the abstracts of speeches reported by the stenographer are to be a part and parcel of the official journal, these abstracts, it would seem, should appear in the manuscript, as that is intended to be and really is the original record of the Senate's proceedings. And if that is the object of the resolution it necessarily alters the manner in which they have been prepared during the past two or three sessions of the Legislature, and will involve a departure from the course previously and from that which is now being pursued, with reference to their publication. Heretofore it has been but a recorded minute of the proceedings, but this resolution contemplates an enlargement of that record, and will necessitate material changes as to the manner of its preparation for the printer. This is a matter which not only affects the journal, as it appears from day to day, during the session of the Legislature, but becomes of

more importance in view of the fact that it is to be perpetuated in book form after the adjournment.

The information I desire, therefore, is:

First—Shall the official journal be prepared as formerly, leaving out the abstracts of speeches contemplated by the resolution? or

Second—Shall they be prepared in conformity with that resolution, and not only be so published as the daily record, but shall they be preserved in this form to the end that they may be thus brought out when embodied in book form after the adjournment of the Legislature?

I am very respectfully yours,

JNO. P. C. WHITEHEAD, *Secretary of Senate.*

On motion of Senator Homan, it was referred to the committee on public printing.

The following protest was submitted by the senators signing the same:

“The undersigned, who voted in the minority on the adoption of resolution offered by the senator from Harris as amended by the senator from Anderson, beg leave to say that they voted against the adoption of the resolution as amended, because the amendment changed the original (Stewart's) resolution in every material respect, in this: That the original resolution in terms, instructed the finance committee to report a bill appropriating sums sufficient to pay the interest accruing on the bonded indebtedness of the state for the next two fiscal years, and to set apart a sinking fund for the ultimate payment of said bonds; whereas the resolution as amended leaves it discretionary with the finance committee to report a bill for the payment only of the interest that matures in July next, and implies that there is a doubt as to the ability of the state to pay such interest that may accrue or may become due on the public debt after July next, therefore we voted ‘no.’

“Second. The resolution, as amended, contains the statement or intimation of the proposition that the state is not able to appropriate one-fourth of the general revenue for the support or maintenance of public free schools without impairing the efficiency of the state to meet promptly the interest as it accrues on its bonded obligations, which statement or intimation we deny, and favored the adoption of the original resolution unincumbered with such insinuations as in our judgment are not only incorrect, but are calculated to impair the credit of the state. We favor the introduction at once of a bill making an appropriation sufficient to pay the interest accruing on our public debt for the next two fiscal years, and setting apart a sinking fund to be ultimately applied to the payment of said debt, and in order that we might vote for such a bill we desired it to be unincumbered [with other appropriations; about which we may honestly differ, and cause delay if not defeat of the appropriation for interest and sinking fund.

SHANNON,  
GRACE,  
SWAINE,  
DAVENPORT,  
PATTON,  
BURTON,

STEWART,  
GUY,  
HOUSTON,  
MOTLEY,  
HOMAN,  
BURNETT,  
RIPETOE.”

On motion of Senator Blassingame, the Senate adjourned until 9 o'clock A. M., on Monday next.